The Hearst Corporation Capital Newspaper Division and Local 31034, Newspaper Guild of Albany, Communication Workers of America, AFL—CIO, CLC. Case 3–CA–22256

November 19, 2004 DECISION AND ORDER

BY MEMBERS LIEBMAN, WALSH, AND MEISBURG

On August 30, 2001, Administrative Law Judge Wallace H. Nations issued the attached decision. The Respondent filed exceptions and a supporting brief. The General Counsel and Charging Party filed cross-exceptions and answering briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusion and to adopt the recommended Order as modified and set forth in full below.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and order that the Respondent, The Hearst Corporation, Capital Newspaper Division, Albany, New York, its officers, agents, successors, and assigns shall

- 1. Cease and desist from
- (a) Failing and refusing to deduct and remit to the Union dues and/or fees owed by employee Valerie Shea.
- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Deduct and remit to the Union dues and/or fees as required by the terms of any applicable collective-bargaining agreement.
- (b) Make whole the Union for the loss of dues and/or fees owing to the Union from employee Valerie Shea as a result of the Respondent's unlawful failure to comply

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

with the terms of the collective-bargaining agreement, with interest computed in the manner set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

- (c) Preserve and, within 14 days of a request or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of dues and/or fees and interest on dues and/or fees due under the terms of this Order.
- (d) Within 14 days after service by the Region, post at its facility in Albany, New York, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 3, 1999.
- (e) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

In accordance with the cross-exceptions of the General Counsel and the Charging Party, we shall correct the judge's inadvertent failure to provide in his recommended Order for the payment of interest on the dues and/or fees owed to the Union. We shall also conform the judge's recommended Order and notice to the Board's standard remedial language.

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals enforcing an Order of the National Labor Relations Board."

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities

WE WILL NOT fail and refuse to deduct and remit to the Union dues and/or fees owed to the Union by Valerie Shea.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed by Section 7 of the Act.

WE WILL, deduct and remit to the Union dues and/or fees as required by the collective-bargaining agreement.

WE WILL, make whole the Union for the loss of dues and/or fees owed to the Union by Valerie Shea as a result of our unlawful failure and refusal to deduct and remit to the Union those dues and/or fees required by our collective-bargaining agreement, with interest.

THE HEARST CORPORATION CAPITAL NEWSPAPER DIVISION

Alfred M. Norek, Esq., for the General Counsel.

L. Michael Zinzer, Esq., of Nashville, Tennessee, for the Respondent.

Barbara L. Camens, Esq., of Washington, D.C., for the Charging Party.

DECISION

STATEMENT OF THE CASE

WALLACE H. NATIONS, Administrative Law Judge. This case was tried in Albany, New York, on April 30, 2001. The charge was filed by Local 31034, Newspaper Guild of Albany, Communication Workers of America, AFL–CIO, CLC (Union) on December 3, 1999, and the complaint was issued on November 30, 2000. The complaint was amended on January 30, 2001. The complaint alleges that The Hearst Corporation, Capital Newspaper Division (Respondent) has engaged in certain conduct in violation of Section 8(a)(1) and (5) of the National Labor Relations Act (Act). Respondent filed a timely answer and, inter alia, admits the jurisdictional allegations of the complaint.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the parties, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, has been engaged in the publication, printing and sale of newspapers at its facility in Albany, New York. The Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section

2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.²

II. ALLEGED UNFAIR LABOR PRACTICES

A. Issues for Determination

The complaint alleges that Respondent violated the Act by on or about June 3, 1999, failing to continue in effect all the terms and conditions of the collective-bargaining agreement, by unilaterally terminating the deduction and remittance of agency fees to the Union for unit member Valerie Shea, following her resignation from the Union, notwithstanding that Shea had executed a voluntary written assignment pursuant to section 13 (dues checkoff) of the collective-bargaining agreement and that such assignment was operative at all material times.

B. Relevant Facts

Melissa Nelson³ was employed by Respondent as an advertising artist from December 8, 1980, until June 4, 1999. For the last 5-1/2 years of her employment there she was President of the Union. The Union has represented a unit of Respondent's employees for 65 years. The Union represents employees in the advertising department, the editorial department, the business office, the systems department, and the maintenance department. As of the time she left Respondent's employ in July, there were approximately 275 persons in the bargaining unit. As pertinent, the Respondent and the Union were parties to a collective-bargaining agreement with a term running from August 1, 1997, to August 1, 2000. Nelson was the chief negotiator for the Union in negotiations that led to this agreement.

Valerie Shea has been a permanent employee of Respondent since 1985. She is employed in retail advertising sales and became a union member on October 8, 1985. At some point she signed a union dues deduction authorization form and to date has not revoked the authorization. On March 24, 1999, Shea sent a memo to Respondent's publisher, Dave White, asking that the Respondent stop deducting dues from her salary due to "issues of private right and conscience." The memo was sent at the suggestion of White who also suggested the wording, having referred Shea to section 2(A)(2) of the parties' collective-bargaining agreement.

On March 26, 1999, Nelson was informed by Respondent's general manager, Bob Wilson, that Respondent was convening a meeting of the joint classification and compensation committee regarding Shea's request. Nelson responded to Wilson with a letter stating that a meeting of the committee over the Shea request was unnecessary as the matter of dues deductions was covered by section 13 of the collective-bargaining agreement.

The two sections of the collective-bargaining agreement cited above are vital to this case and are set out here for reference.

Section 2 A of the agreement, entitled guild membership: employee obligation, reads:

¹ All dates are in 1999 unless otherwise indicated.

² Respondent's answer denies the labor organization status of the Union, but it admitted this fact at the hearing.

³ During the timeframe about which Nelson testified, she was Melissa Locke. She subsequently married and uses the name Melissa Nelson.

1. Not fewer than nine (9) out of ten (10) employees coming under the terms of this agreement and hired after June 30, 1949, and in the case of former Press Company, Inc., employees hired after October 15, 1960, shall apply for membership in the Guild.

For purposes of this Section 2, the term "membership" shall mean fulfilling such financial obligation as may be enforced through a union security clause, pursuant to the National Labor Relations Act. In the event of failure to become a member no later than thirty (30) days from the start of employment the employee shall, upon notice from the Guild, be discharged.

All employees who are now, or may become, members of the Guild shall remain members in good standing during the life of this agreement, and for failure to do so such employee, after having exhausted or abandoned his/her recourse under the Newspaper Guild constitution, and upon expulsion from the Guild, shall be discharged upon formal notice from the Guild.

2. Both the Company and the Guild recognize that compulsory membership in any organization involves issues of private right and conscience.

Therefore, except as stated in the ensuing paragraph, it will be the responsibility of the Job Classification and Compensation Joint Committee, on request of either the Company or the Guild, to appropriately consider and endeavor to resolve any indicated desire of any member of the Guild to be relieved of whatever obligation this section may impose on him/her.

Notwithstanding the preceding paragraph, the Joint Committee will have no authority to consider any matter involving termination of membership, obligation by operation of law (e.g., promotion to supervisory position, etc.).

Neither this section nor the Joint Committee's consideration, resolution or non-resolution of any matter this section consigns to it will be subject to grievance or arbitration.

Nelson referred to section 2(A)(1) as a "one in ten" provision, explaining that 1 in each 10 employees hired by the Respondent is offered nondues paying representation. The Guild represents the employee, but that employee is not obligated to pay dues. If the employee refuses this status, the Respondent must wait to the end of the next 10 hirings to offer that status to another new employee.

While Nelson was a union officer, no unit employee had availed himself or herself of the relief offered by section 2(A)(2) of the section. She testified that the classification and compensation joint committee (JCCJ Committee) has historically been used for new job classifications. The parties stipulated that the JCCJ Committee has never convened to consider an issue under section 2(A)(2), or the language which historically preceded it, prior to the issues raised by Valerie Shea.

Section 13 of the collective-bargaining agreement, entitled "Dues Checkoff," in pertinent part, provides:

Upon an employee's voluntary written assignment, the Company shall deduct weekly from the salary account of such employee and pay to the Guild on the fifteenth (15th)

day of each month, but in no event later than the twentieth (20th), all membership dues levied by the Guild for the current month. Such membership dues shall be deducted from the employee's salary in accordance with a schedule furnished the Company by the Guild on the first (1st) day of each month. The Company shall notify the Guild of any changes in classification or step-ups in years of experience. An employee's voluntary written assignment shall remain effective in accordance with the terms of such assignments. All such deductions shall be made in conformity with local, state, or federal legislation.

The form dictated by this section for the written assignment states in pertinent part:

This assignment and authorization shall remain in effect until revoked by me, but shall be irrevocable for a period of one (1) year from the date appearing below or until the termination of the collective-bargaining agreement between yourself and the guild whichever occurs sooner. I further agree and direct that this assignment and authorization shall be renewed automatically and shall be irrevocable for successive periods of one (1) year each or for the period of each succeeding applicable collective agreement between yourself and the Guild, whichever period shall be shorter, unless written notice of its revocation is given by me to yourself and to the Guild by registered mail not more than thirty (30) days and not less than fifteen (15) days prior to the expiration of each period of one (1) year, or of each applicable collective-bargaining agreement between yourself and the Guild, whichever occurs sooner. Such notice of revocation shall become effective for the calendar month following the calendar month in which you receive it.

Pursuant to the terms of section 13, the Respondent for years has deducted from employees' weekly paychecks union dues which are directly deposited in the Union's account. On a monthly basis, Respondent gives the Union a written report reflecting the deductions and deposits made for the 4 weeks making up the month. Nelson testified without contradiction that, though the reports are compiled by Respondent on a weekly basis, they had for years been tendered to the guild on a monthly basis.

On March 29, Wilson sent a letter to Nelson stating that Respondent considered Shea's request to be a matter that could be raised under section 2(A)(2) of the agreement. Nelson replied on April 7, in a letter wherein she stated that section 2(A)(2) deals with the subject matter of "compulsory membership in any organization" as it relates to "issues of private right and conscience." She noted that Shea's request dealt with dues deductions covered by section 13, and further noted that Shea could rescind her dues deduction authorization in accordance with the terms of section 13.

On April 8, Nelson sent a letter to Shea setting out several options that Shea could elect with respect to her union dues. It noted that Shea could rescind the dues deduction authorization

during a window period from May 12 to 27,⁴ and the Respondent would stop deducting dues, though Shea would still be responsible for paying them. Nelson pointed out that Shea could resign from the Union and become an "agency fee payer," paying an amount equal to dues. She also noted that Shea could become an agency fee payer objector or a so-called "Beck" objector (Communications Workers v. Beck, 487 U.S. 735 (1988)) and pay only that portion of the fee that is directly related to the costs of representation, about 75 to 80 percent of normal dues. She also sent a union brochure elaborating on the options outlined in the letter. Shea acknowledged that she received this letter.

Shea sent a letter to Nelson on April 14, asking to resign from the Union and offering to discuss the matter with Nelson. Nelson testified she met with Shea on April 16, and reiterated the options outlined in her letter of April 8. According to Nelson, Shea said she did not want to become a *Beck* objector and wished to continue having her dues deducted. Nelson testified that following this meeting she sent Shea a letter stating that it was her understanding that Shea wished to resign from the Union and become an agency fee payer. She stated that Shea's resignation from the Union was effective as of the date of the letter.⁵

Nelson next received a letter from Wilson dated April 15, stating that Respondent felt the matter of Shea's request to stop having dues deducted was a matter to be determined by the JCCJ Committee and requested a meeting of the committee to deal with Shea's request. On receipt of this letter, Nelson phoned Wilson and reiterated the Union's position that convening a committee meeting to deal with Shea's request was improper. According to Nelson, Wilson then informed her that the Respondent was going to declare an impasse and stop deducting Shea's dues.⁶ Nelson responded that under the collectivebargaining agreement, if Respondent did so, the Union could request that Shea be fired. Wilson stated that the Respondent would not dismiss Shea and the Union would have to arbitrate the request. Nelson noted that the Union could also file an unfair labor practice charge with the Board. She also pointed out the history of section 2 of the contract came from a memo that dealt with compulsory membership. After some more conversation, Nelson suggested that perhaps Shea could become the next "one in ten" employee. Wilson stated that the company intended to propose this remedy in the JCCJ Committee meeting.

Nelson followed up this conversation with a letter dated April 19, pointing out the Union's position that Shea's request was to stop having dues deducted and did not deal with her obligation to pay dues. It also pointed out that Shea had resigned from the Union and was an agency fee payer. It further noted that Shea could revoke the dues deduction authorization but had not done so.

Wilson wrote to Nelson on April 27, stating that he had spoken with Shea and that she denied having any extensive communication with Nelson about her request. Wilson then unilaterally stopped deducting dues from Shea's paycheck during the next month. After receiving this letter, Nelson again spoke with Shea in early May. According to Nelson, Shea continued to tell her that she wanted her fees deducted. In early June, Nelson was planning to leave the Respondent and move to another city. Nelson was trying to clear up continuing issues before she stepped down as union president and Shea was one of those issues. So on June 7, she called Shea. In this conversation, Shea for the first time brought up the JCCJ Committee. Shea said that Wilson had told her that the committee was an avenue she should pursue. Nelson told Shea why the Union opposed using the committee to resolve Shea's dispute. The conversation ended.

On June 8, Nelson was at Respondent's facility meeting with her successor as union president, Tim O'Brien, and with the Union's office manager, Janna Ptilyk. Ptilyk was responsible for checking the monthly dues-checkoff report from Respondent. She pointed out to Nelson and O'Brien that Shea was only shown on the May report for a portion of the weeks covered. Since May, Shea has not paid agency fees or dues and Respondent has not deducted or remitted such fees or dues to the Union. Shea had not to date of hearing revoked her dues deduction authorization form. After gaining the knowledge of Respondent's unilateral action, Nelson left Wilson a message stating that the Union was willing to negotiate the situation. Nelson then called Shea. Nelson memorialized her conversations with Shea in a letter to Shea dated June 21. She noted to Shea that the cessation in dues deductions was not in accord with the collective-bargaining agreement and that a grievance would be filed over the issue. She requested Shea to pay her fees and again outlined Shea's options.

On June 9, Wilson wrote to Nelson stating that a meeting of the JCCJ Committee was the proper way to resolve the Shea matter. Nelson responded to this letter with one of her own dated June 21, wherein she reiterated the Union's position that the JCCJ Committee was not the proper forum to discuss the matter.

Also on June 21, the Union filed a grievance over the matter of the cessation of Shea's dues deductions.

⁴ The collective-bargaining agreement gives an annual window period during which dues deduction authorizations can be revoked. This is a period of either 30 days before the anniversary date of the individual joining the Union or 30 days before the expiration of the collective-bargaining agreement, whichever comes first.

³ Shea denied ever having a face-to-face conversation with Nelson about the dues issue. Shea did remember several telephone conversations with Nelson about the subject. She never contradicted the statements in Nelson's April 16 letter in writing. However, she believed that she told Shea in a June phone conversation that she did not want to become an agency fee payer, but wanted instead to pay nothing to the Union. Shea's memory of the events in question were very hazy compared to Nelson. I credit Nelson's testimony in any instance where it varies from that of Shea

⁶ Wilson testified that he could not remember declaring an impasse. I credit Nelson's testimony as Wilson's subsequent actions make Nelson's testimony the more credible.

⁷ Based on the credited testimony of Nelson and O'Brien, I find June 8 to be the first day that the Union had sure knowledge that Respondent was no longer deducting dues or fees from Shea's paycheck. The charge in this case was prepared November 30 and filed on December 3 2000.

Shea wrote Nelson on June 25, stating that she did not feel she owed the Union anything based on section 2(A)(2) of the contract.

On July 8, Wilson wrote Nelson and informed her that the grievance was denied based on Respondent's interpretation of section 2(A)(2) of the contract. The Union sought to arbitrate the issue, but Respondent refused. At about this point in July, Nelson moved away from the area and Tim O'Brien became the union president. The collective-bargaining agreement between the Union and Respondent was scheduled to expire on August 1, 2000. It was extended until a new agreement was reached, which expires on August 1, 2004. The new agreement contains no changes to sections 2(A)(2) and 13.

O'Brien, in his new union role, wrote Wilson on September 27, asking that the parties meet to discuss the matter. On October 12, Wilson wrote to O'Brien demanding the Union accede to Respondent's interpretation of section 2(A)(2). O'Brien responded with a letter dated November 1, noting that the Union will file a demand for arbitration. O'Brien followed that letter with one dated November 30, stating that the Union was moving the grievance to arbitration.

On November 24, by letter, bargaining unit member Gregory Therien requested Respondent to stop deducting dues for reasons similar to those of Shea. Wilson wrote O'Brien on November 30, notifying him of Therien's request and Respondent's willingness to convene the JCCJ Committee to deal with the request. O'Brien, in a letter dated December 22, while not forgoing any other stances the Union had taken, agreed to meet. Wilson responded asking for dates.

The JCCJ Committee was convened on January 26, 2000. This meeting was to discuss the Therien request. Therien was not present and Wilson said it was not necessary for either him or Shea to be present. O'Brien asked how the concerns of the two employees on the issues of private right and conscience could be addressed without knowing what they were. O'Brien also raised the Union's concern about the whole bargaining unit deciding they did not want to pay dues. The parties discussed possible solutions to the issue. The Union suggested that the Respondent make Shea a 1-in-10 employee and forego its next 1-in-10. The Respondent was not interested in sacrificing a future 1-in-10. The meeting ended without any solutions to issues being reached. They met the next day to discuss Shea. No solutions were reached at this meeting.

The JCCJ Committee was again convened on February 11, 2000, to again discuss the Therien matter. O'Brien had written Therien asking what his issues were. Therien responded by telling O'Brien he did not want to disclose them. Because of this response, O'Brien told Wilson at the meeting that the Union could not proceed. The committee next met on February 18, 2000, to again discuss the Shea request. The Union put forth four options: (1) that Shea could become a full dues paying member again; (2), that she could stay an agency fee payer; (3) that she could become a 1-in-10, but the Company would then forgo its next 1-in-10. Wilson took the options under advisement and said he would get back to the Union.

By letter dated February 23, 2000, Wilson declined to accept any of the options. O'Brien responded by letter dated March 7,

2000, expressing his disappointment and noting that Shea was still obligated to pay agency fees and the Respondent was still obligated to deduct them from her pay. There was no contact between the Union and Respondent between March 7 and November 1, 2000. Though O'Brien and Wilson met on that date to seek settlement of the matter, no settlement was reached. The Union to date has not requested that Shea be discharged for failure to pay dues.

A. Discussion and Determination of the Issues

In *Auto Workers Local 1752 (Schweizer Aircraft)*, 320 NLRB 528 (1995), the Board addressed the underlying issue presented in this case.

In short, when an employee working under a contract with a union-security clause signs a checkoff authorization, the employee agrees to a particular method for paying whatever dues and fees can be lawfully required of him pursuant to the union-security clause. Under the terms of a checkoff authorization, the employee may be precluded from revoking his agreement to that method of payment, so long as the revocability restrictions are consistent with Section 302)(c)(4).⁸ [Id. 532.]

See also Polymark Corp., 329 NLRB 9, 11 (1999):

In the case of both checkoff and the dues obligation imposed by the union-security clause, an employee's resignation places him in a position, under *Beck*, to claim the right to pay dues only for the support of the union's "representation activities." But, just as his resignation does not nullify his dues obligation in toto, so his resignation should not nullify his checkoff authorization.

It is well established that an employer violates Section 8(a)(5) by ceasing to deduct and remit dues in derogation of an existing contract. *Shen-Mar Food Products*, 221 NLRB 1329 (1976) ("Each monthly failure to deduct and remit dues . . ./constitutes/ a separate violation of the Act. *MBC Headwear*, *Inc.*, 315 NLRB 424, 428 (1994). See also *King Manor Care Center*, 308 NLRB 884, 887 (1992).

Respondent's reliance on the language of section 2(A)(2) of the contract is misplaced. Arguably, the JCCJ Committee could have and indeed did take up Shea's request and reached some agreement. But it did not. There is nothing in the language of that sction which would allow the Respondent to unilaterally abrogate the clear terms of section 13 of the contract. Neither the Union's refusal to meet pursuant to the terms of section 2(A)(2) or its refusal to agree with Respondent's position when the JCCJ Committee was convened is neither subject to grievance nor arbitration. The section is thus really a nullity unless some agreement is reached. Section 13 of the contract has been in full force and effect for all material times. Thus, absent revocation of her authorization pursuant to the contract terms, in accord with Schweizer, Shea remained "obligated to make

⁸ Here, the collective-bargaining agreement allows revocation of authorization within window period of 30 days annually. Shea has never revoked her authorization pursuant to the terms of the collective-bargaining agreement.

payments even after a resignation of membership." Under *Shen-Mar*, Respondent's failure to deduct and remit Shea's dues constitutes a clear violation of Section 8(a)(5) of the Act.⁹

CONCLUSIONS OF LAW

- 1. The Respondent, The Hearst Corporation, Capital Newspaper Division, is an employer within the meaning of Section 2(2), (6), and (7) of the Act.
- 2. The Union, Local 31034, Newspaper Guild of Albany, Communication Workers of America, AFL-CIO-CLC, is a labor organization within the meaning of Section 2(5) of the Act.
- 3. By, since the week of May 2, 1999, unilaterally failing and refusing to deduct and remit to the Union proper dues and/or fees from the salary of employee Valerie Shea, in derogation of

the terms of the applicable collective-bargaining agreement, Respondent has engaged in activity in violation of Section 8(a)(1) and (5) of the Act.

4. The unfair labor practices committed by Respondent are unfair labor practices within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Respondent must make whole the Union for the loss it suffered by Respondent's unlawful refusal and failure to deduct and remit to the Union dues and/or fees from the pay of Valerie Shea from on or about the week of May 2, 1999 to present, with interest. *El Centro Community Mental Health Center*, 266 NLRB 1 (1983).

[Recommended Order omitted from publication.]

⁹ Respondent's Sec. 10(b) defense is unfounded under *MBC Headware*, supra. Apart from the independent continuing violation, the record established that the Union did not have notice of the cessation of dues remittance until June 8, a date within 6 months of the filing of the charge.